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Decision 95-08-020 August 11, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 the Southern California Water )  
 Company (U 133 W) for authority )  
 pursuant to Public Utilities Code )  
 Sections 454 and 1001 et seq. to )  
 enter into an agreement with the )  
 Contra Costa Water District for )  
 the construction of facilities in )  
 the Bay Point District and for the )  
 resolution of other pending issues; )  
 and to revise its tariffs regarding )  
 new service connections. )

Application 95-02-024  
(Filed February 28, 1995)

**ORIGINAL**

O P I N I O N

1. Summary

Southern California Water Company (SoCalWater) seeks authority to enter into an agreement with the Contra Costa Water District (County Water District) that would (1) dismiss an eminent domain proceeding against SoCalWater's Bay Point District (Bay Point); (2) provide a new pipeline system through which SoCalWater can purchase treated water from the County Water District; and (3) permit SoCalWater to amend its tariffs to provide for a new service connection fee payable to the County Water District. No increase in rates for SoCalWater is sought at this time. The application is unopposed and is granted.

2. Background

SoCalWater, doing business as California Cities Water, serves 4,630 connections in its Bay Point District, which is located in an unincorporated area in Contra Costa County. Until 1992, SoCalWater purchased all of its water from the County Water District, which obtains it from the Contra Costa Canal. This untreated water was purified by SoCalWater at its Madison Treatment

Plant (Madison Plant) and its Hill Street Treatment Plant (Hill Street Plant), then pumped into the Bay Point distribution system.

In 1992, the Contra Costa County Department of Highways condemned the Madison Plant and demolished the facility in order to widen State Highway 4. SoCalWater continued to use its Hill Street Plant, and it began purchasing wholesale treated water from the City of Pittsburg to fill the void left by the loss of the Madison Plant. As part of the compensation for the condemnation, the county agreed to pay the extra cost of water purchased from Pittsburg through March 1994.

On May 3, 1993, the County Water District filed an eminent domain proceeding to acquire all of SoCalWater's system serving Bay Point. Following trial, the Superior Court for the County of San Mateo issued a statement of decision supporting the proposed takeover and directing that the case proceed to the compensation phase.<sup>1</sup> Pending a final decision, the parties have been meeting to discuss alternatives to condemnation. On August 3, 1994, SoCalWater and the County Water District entered into the agreement that is now before the Commission for approval.

Under the agreement, the County Water District would construct new pipeline facilities to deliver treated water to SoCalWater for its Bay Point customers; SoCalWater would pay for part of the new facilities and would cooperate in collecting the district's connection fee; and the eminent domain proceeding in Superior Court would be dismissed.

### 3. Proposed New Facilities

In order for SoCalWater to receive treated water from the County Water District, the district will construct a transmission system that includes 5,500 feet of 20-inch pipeline, 18,600 feet of

<sup>1</sup> Contra Costa Water District v. Southern California Water Co., Case No. 380306, Superior Court of California, County of San Mateo.

16-inch pipeline, a flow control valve, recording meter devices and backflow prevention devices.

The transmission system will permit SoCalWater to receive 550 gallons per minute of treated water to augment the supply of purchased untreated water processed by the Hill Street Plant and the output of a new well that recently went on line. As the Bay Point population grows, SoCalWater has the right to purchase more treated water from the Water District up to the full capacity of the new transmission system (1,980 gallons per minute).

Cost of the new facility is approximately \$5 million. Under the agreement, SoCalWater would pay \$2.6 million of capital costs. The utility in September 1994 deposited \$1.3 million with the County Water District, representing net proceeds received in the condemnation of the Madison Plant. An additional \$954,000 was credited, based on SoCalWater receipts from the purchase of treated water from the City of Pittsburg. The remaining balance of \$1.29 million, plus interest, is to be paid to the district in monthly payments over seven years once delivery of treated water begins.

#### 4. Other Terms of the Agreement

Other terms of the agreement between SoCalWater and the County Water District include:

- a. The County Water District will dismiss the eminent domain action against SoCalWater upon approval of the agreement by the Commission. SoCalWater will waive its claim for reimbursement of legal expenses of \$435,000.
- b. After the first year of operation of the new transmission system, SoCalWater will be responsible for maintaining the facilities between Nichols Road and Pacifica Avenue in Bay Point and will accept ownership of these facilities upon full payment for their construction.
- c. SoCalWater will construct and own a booster station located at the intersection of Driftwood Drive and Pacifica Avenue.

- d. SoCalWater agrees to notify customers of differences in treated water. The County Water District uses a type of disinfectant different than chlorination, which is used by SoCalWater at the Hill Street plant.
- e. SoCalWater agrees to pay the rates and charges for wholesale treated water service adopted from time to time by the Water District board of directors, and to take a minimum daily average of 40 gallons per minute in order to maintain water quality in the new transmission line.
- f. The agreement may be terminated by SoCalWater upon 18 months' notice, provided the County Water District is compensated for the full value of the transmission facilities. The County Water District may terminate the agreement for cause on 18 months' notice.

If the Commission approves the agreement, the transmission system is expected to become operational by September 16, 1996.

5. Connection Fee for Future Customers

SoCalWater's share of the pipeline costs (\$2.6 million) is described as a "buy-in charge" for the 550 gallons per minute of treated water that will be delivered to meet the needs of current customers. For future customers, SoCalWater agreed to seek Commission approval for a tariff change that will permit it to require payment to the County Water District of a "Facilities Reserve Charge," or connection fee, on new connections. The connection fee is initially set at \$6,770 per dwelling unit (5/8-inch service) and includes the \$1,450 connection fee for

untreated water which the County Water District now charges its retail water customers, including SoCalWater.<sup>2</sup>

SoCalWater states that the County Water District on July 1, 1993, imposed the connection fee as a condition of its sale of untreated water to retail water customers. The company resisted the fee, arguing that as a private water utility it is not authorized to pass connection fees on to new customers.<sup>3</sup> After conferring with counsel and with the Commission's Water Utilities Branch, however, SoCalWater concluded that the County Water District, as a state agency, has the legal right to require its customers, including public utilities, to pay a reasonable connection fee for existing and future facilities.<sup>4</sup>

Until now, SoCalWater has recorded its connection fee payments to the County Water District as a purchased water expense, reasoning that the fee is a condition of receiving the water. These costs would be reflected in rates applicable to all current

<sup>2</sup> In Appendix C of the application, SoCalWater notes that adjacent water purveyors all assess connection fees. Among them: City of Martinez, \$3,900; East Bay Municipal, \$2,460; City of Antioch, \$1,450; City of Pittsburg, \$1,450; Marin County Water District, \$8,500.

<sup>3</sup> While small water companies are permitted to impose connection fees for new service, Class A water companies like SoCalWater are not permitted to impose such a fee in districts of more than 2,000 customers. Instead, the larger water companies under their Rule 15 tariffs impose customer advances or contributions for new service. Advances must be repaid to customers (often, developers) over a 40-year period. (See, Re Revision of General Order 103 (1991) 39 CPUC2d 594.)

<sup>4</sup> The Facilities Reserve Charge imposed by the County Water District is based on provisions of the California Water Code, §§ 30000 et seq., and the California Government Code, §§ 66012 et seq. (See Water District Resolution No. 93-24, appended to the application at Prepared Testimony of Daniel A. Dell'Osa, Appendix B.)

ratepayers. Because the fee will increase to \$6,770 per new household connection with the purchase of treated water, however, SoCalWater seeks in this application to amend its Schedule No. BY-1 to require that applicants for new service pay the fee directly to the County Water District as a condition of receiving service. In prepared testimony submitted with the application, Daniel A. Dell'Osa, manager of tariffs and special projects, explains:

"This procedure was selected for several reasons, including: 1) existing customers are not impacted by charges that are imposed by [the County Water District] because of customer growth, 2) the Company will avoid administrative costs of collecting money from its customers only to pass those amounts on to [the Water District], 3) applicants for service will clearly see that [the Water District], rather than the Company, is imposing these fees, and 4) a potential tax issue is avoided (i.e., whether the Company would have to gross up the amounts collected for taxes as it does contributions from contractors)." (Dell'Osa prepared testimony, pp. 10-11.)

#### 6. Impact on Ratepayers

The application before us does not seek to have costs reflected in rates at this time. However, the agreement will lead to increases in revenue requirements in the future. Recorded revenues in the Bay Point are \$2.6 million as of the 12 months ended November 1994. SoCalWater states that, in order to minimize ratepayer impact, it will treat the project costs as follows:

- a. Net proceeds from the condemnation of the Madison Plant will be used to offset the \$1.3 million deposit made on the new facilities.
- b. The \$425,927 tax on gain on disposition of the Madison Plant will be added to rate base in 1997 and amortized over 65 years.
- c. The estimated \$1.29 million of additional buy-in cost, plus interest, will be treated as water expense as it is paid to the County Water District at the rate of

\$218,793 per year for seven years beginning in 1997.

The proposed rate treatment will require no rate changes before 1997. The average customer would pay an additional \$5 per month for the next seven years. There would be minimal rate impact thereafter. The cost of capital improvements made by SoCalWater within the Bay Point District would be included in future general rate case applications.

7. Division of Ratepayer Advocates' (DRA) Review

DRA filed an Advice of Participation in this matter on March 16, 1995, indicating that it would review the application and make a recommendation that might or might not necessitate a hearing.

On June 7, 1995, DRA in a letter to the assigned administrative law judge and to the applicant, recommended that the application be approved. DRA stated that it had completed its review, including several meetings with applicant, and had concluded that the agreement with the County Water District is necessary to meet SoCalWater's need for additional water, and that the costs to current and future ratepayers in the Bay Point District are reasonable.

DRA recommended that SoCalWater be authorized to file its new tariff schedule immediately, by advice letter, to provide for the new service connection fee that will be payable to the County Water District.

8. Discussion

SoCalWater's participation in the agreement with the Contra Costa Water District is in the best interest of ratepayers in the Bay Point District. Shareholders will bear the litigation costs of \$435,000 in the dismissed condemnation action, while the gain on sale from condemnation of the Madison Plant (nearly \$1 million) will be used to offset the cost of additional capacity. In addition, the county's Facility Reserve Charges paid in the

future will be assessed on new customers requesting service, rather than on existing ratepayers, and will permit the County Water District to add the necessary capacity for full build-out of the Bay Point service area.

The Commission's Water Utilities Branch has examined the application and has raised no objection. No protests to the application have been filed. While the ratemaking treatment of the county's connection fee is a departure from our customary requirements, the company has adequately justified the approach it has taken in its agreement with the county. We will approve the application as submitted.

Findings of Fact

1. SoCalWater serves 4,630 connections in its Bay Point District.
2. Until 1992, SoCalWater purchased untreated water for Bay Point from the County Water District, purifying it in two treatment plants.
3. In 1992, one of the treatment plants was condemned for road widening, requiring the utility to purchase treated water from the City of Pittsburg to fill Bay Point's needs.
4. On May 3, 1993, the County Water District filed an action in eminent domain to acquire all of SoCalWater's system serving Bay Point.
5. SoCalWater and the County Water District subsequently executed an agreement, subject to Commission approval, resolving the eminent domain action and providing for SoCalWater to participate in development of a new pipeline system that would permit the County Water District to sell treated water to the utility.
6. SoCalWater would pay approximately \$2.6 million of the \$5 million capital costs of constructing the new pipeline system.
7. SoCalWater agreed to seek Commission authority to require that a connection fee assessed by the County Water District for new

connections be paid directly to the County Water District as a condition for start of water service.

8. The rate treatment proposed in the application will require no rate changes in Bay Point until 1997, when the average customer would begin paying an additional \$5 per month for a period of seven years.

9. There have been no protests to the application.

Conclusions of Law

1. A hearing is not required.
2. The application should be granted.
3. Because of Bay Point's need for a new source of water, this order should become effective immediately.

O R D E R

IT IS ORDERED that:

1. The application of Southern California Water Company, doing business as California Cities Water in the Bay Point District, to enter into an agreement with Contra Costa Water District, as said agreement is set forth in Appendix B to the application, is approved.

2. Southern California Water Company is authorized to amend its Schedule BY-1 to provide that future applicants for service in the Bay Point District shall be required to pay any lawful and applicable Facilities Reserve Charge to the Contra Costa Water District before Southern California Water Company shall be required to install a new or larger meter and provide water service.

3. This application is closed.  
This order is effective today.  
Dated August 11, 1995, at San Francisco, California.

DANIEL Wm. FESSLER  
President  
P. GREGORY CONLON  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY

*Weeley Franklins*

Acting Executive Director